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LRB095 07951 AJ0 48930 a

1 AMENDMENT TO HOUSE BILL 563

2 AMENDMENT NO. _____. Amend House Bill 563, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Internet Dating Disclosure and Safety Awareness Act.

7 Section 5. Definitions. As used in this Act:

8 "Communicate" or "communicating" means free-form text
9 authored by a member or real-time voice communication through
10 an online dating service provider.

11 "Member" means a person who submits to an online dating
12 service provider the information required by the provider to
13 access the provider's service for the purpose of engaging in
14 dating, participating in compatibility evaluations with other
15 persons, or obtaining matrimonial matching services.

16 "Online dating service provider" or "provider" means a

1 person engaged in the business of offering or providing to its
2 members for a fee access to dating, compatibility evaluations
3 between persons, or matrimonial matching services through the
4 Internet.

5 "Sex offender registrant search" means a search for a
6 person's current and historical registration status on each
7 state's available sex offender registry, including the
8 District of Columbia and Puerto Rico, initiated by an online
9 dating service provider conducted through one of the means
10 provided for in Section 10 of this Act.

11 "Sex offense conviction" means a conviction for an offense
12 that would qualify the offender for registration as a sex
13 offender pursuant to the Sex Offender Registration Act or under
14 another state's equivalent statute.

15 Section 10. Sex offender registrant search. For purposes of
16 this Act, a sex offender registrant search shall be conducted
17 through one of the following means:

18 (1) by searching each available and regularly updated
19 state-wide sex offender registry database in all 50 states
20 plus Washington, D.C. and Puerto Rico; or

21 (2) by searching a database maintained and regularly
22 updated by a private vendor whose database contains
23 state-wide sex offender registrant information for all 50
24 states plus Washington, D.C. and Puerto Rico as would be
25 otherwise accessible through searches of all the available

1 government databases specified in item (1) of this Section.

2 Section 15. Sex offender registrant search; disclosures.

3 (a) An online dating service provider offering services to
4 residents of this State shall disclose clearly and
5 conspicuously, to any member who provides a billing address or
6 a zip code in this State when registering with the provider, if
7 the online dating service provider does not initiate such a sex
8 offender registrant search.

9 (b) If the online dating service provider does not initiate
10 sex offender registrant searches, the provider must make a
11 disclosure that shall read:

12 "NO SEX OFFENDER REGISTRY SEARCH IS DONE ON MEMBERS WHO
13 USE THIS SERVICE. PLEASE TAKE APPROPRIATE SAFETY MEASURES
14 TO INCREASE AWARENESS OF POSSIBLE RISKS ASSOCIATED WITH
15 DATING."

16 (c) The disclosure required by subsection (b) of this
17 Section shall appear on a web page required to be viewed by a
18 person applying to be a member who has indicated a billing
19 address or zip code in this State in the registration process.
20 The disclosure cannot be more than 3 inches from the top of the
21 web page and must be:

- 22 (1) in bold capital letters;
23 (2) in at least 12 point type; and
24 (3) in a color that contrasts from the background.

25 The provider shall require the applicant in this State to

1 make an electronic acknowledgement that the applicant has been
2 provided the disclosure before the applicant is accepted as a
3 member. The disclosure required by subsection (b) of this
4 Section shall additionally appear on any page that appears to a
5 member in this State each time that member initiates or
6 receives a communication with another member through the
7 provider's service.

8 (d) If the online dating service provider conducts sex
9 offender registry searches and the provider has a policy
10 allowing a member who has been identified as being on a sex
11 offender registry to have access to its service to communicate
12 with any member in this State, the provider shall clearly and
13 conspicuously disclose on any communication to a member in this
14 State from the member who has been identified as having been on
15 a sex offender registry, and on any web page that is seen by or
16 transmitted to a member in this State that contains the
17 personal information for the member who has been identified as
18 having been on a sex offender registry and that is seen by or
19 communicated to a member in this State, a disclosure that shall
20 read:

21 "THIS PERSON HAS BEEN IDENTIFIED AS A CURRENT OR FORMER
22 SEX OFFENDER REGISTERED ON ONE OR MORE SEX OFFENDER
23 REGISTRIES."

24 (e) Prior to disclosing to any member or publicizing in any
25 manner that a member has been identified as having been on a
26 sex offender registry, the provider shall, if it conducted the

1 search in accordance with item (1) of Section 10, notify the
2 member identified as having been on a sex offender registry of
3 the results of the search. If the provider conducts the search
4 in accordance with item (2) of Section 10, it shall notify and
5 require the private vendor to contact the member having been
6 identified as having been on a sex offender registry regarding
7 the results of the search.

8 If within 10 days of receipt of notification the member
9 disputes the accuracy of his or her status as having been on a
10 sex offender registry, the provider either personally or
11 through its vendor shall, within 30 days of receipt of
12 information from the member contesting the accuracy of the sex
13 offender search, make a determination of its accuracy and so
14 notify the member.

15 Section 20. Provider policies; disclosure. An online
16 dating service provider that conducts sex offender registry
17 searches shall establish an automatic electronic link to a web
18 page that provides a safety awareness notification. At a
19 minimum, the safety awareness notification shall provide the
20 following:

21 (1) A statement that reads:

22 "PERSONAL SAFETY AWARENESS NOTICE CAUTION:

23 The sex offender registrant searches for sex
24 offenders convictions are not foolproof and are not
25 intended to give members a false sense of security. Sex

1 offender registrant searches are not a perfect safety
2 solution and offenders may circumvent even the most
3 sophisticated search technology or registration
4 requirements.

5 Not all sex offender records are public in all
6 states and not all databases are up-to-date. Only
7 publicly available sex offender registrant data is
8 included in the search.

9 Anyone who is able to commit identity theft can
10 also falsify a dating profile.

11 There is no substitute for using good common sense
12 and acting with caution when communicating with any
13 stranger who wants to meet you."

14 (2) A list and description of safety measures
15 reasonably designed to increase awareness of safer dating
16 practices as determined by the provider.

17 Section 25. Application. Any online dating service
18 provider that signs up members from Illinois must comply with
19 the provisions of this Act.

20 Section 30. Jurisdiction. An online dating service that
21 engages in the act of transmitting files over the Internet
22 addressed to residents of the State, and the act of accepting
23 membership fees from residents of the State, means that the
24 online dating service is operating, conducting, engaging in,

1 and otherwise carrying on a business in the State, subjecting
2 the online dating service providers to regulation by the State
3 and to the jurisdiction of the State's courts.

4 Section 35. Unlawful practice. Failure to comply with the
5 disclosure requirements of this Act shall constitute an
6 unlawful business practice under the Consumer Fraud and
7 Deceptive Business Practices Act. Each failure to provide the
8 required disclosure constitutes a separate violation.

9 Section 40. Exemptions.

10 (a) An Internet service provider does not violate this Act
11 as a result of serving as an intermediary for the transmission
12 of electronic messages between members of an online dating
13 service provider.

14 (b) An Internet access service or other Internet service
15 provider shall not be considered an online dating service
16 provider within the meaning of this Act as to any online dating
17 service website provided by another person or entity.

18 (c) An Internet service provider that has fewer than 1,000
19 members is exempt from the requirements of this Act.

20 Section 45. Severability. If any provision of this Act or
21 its application to any person or circumstance is held invalid,
22 the invalidity of that provision or application does not affect
23 other provisions or applications of this Act that can be given

1 effect without the invalid provision or application.

2 Section 90. The Consumer Fraud and Deceptive Business
3 Practices Act is amended by changing Section 2Z as follows:

4 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

5 (Text of Section before amendment by P.A. 95-562)

6 Sec. 2Z. Violations of other Acts. Any person who knowingly
7 violates the Automotive Repair Act, the Automotive Collision
8 Repair Act, the Home Repair and Remodeling Act, the Dance
9 Studio Act, the Physical Fitness Services Act, the Hearing
10 Instrument Consumer Protection Act, the Illinois Union Label
11 Act, the Job Referral and Job Listing Services Consumer
12 Protection Act, the Travel Promotion Consumer Protection Act,
13 the Credit Services Organizations Act, the Automatic Telephone
14 Dialers Act, the Pay-Per-Call Services Consumer Protection
15 Act, the Telephone Solicitations Act, the Illinois Funeral or
16 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic
17 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home
18 Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud
19 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
20 Act, the Payday Loan Reform Act, subsection (a) or (b) of
21 Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail
22 Act, the Internet Caller Identification Act, paragraph (6) of
23 subsection (k) of Section 6-305 of the Illinois Vehicle Code,
24 the Internet Dating Disclosure and Safety Awareness Act,

1 Article 3 of the Residential Real Property Disclosure Act, the
2 Automatic Contract Renewal Act, or the Personal Information
3 Protection Act commits an unlawful practice within the meaning
4 of this Act.

5 (Source: P.A. 94-13, eff. 12-6-05; 94-36, eff. 1-1-06; 94-280,
6 eff. 1-1-06; 94-292, eff. 1-1-06; 94-822, eff. 1-1-07; 95-413,
7 eff. 1-1-08.)

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16 the Credit Services Organizations Act, the Automatic Telephone
17 Dialers Act, the Pay-Per-Call Services Consumer Protection
18 Act, the Telephone Solicitations Act, the Illinois Funeral or
19 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic
20 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home
21 Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud
22 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
23 Act, the Payday Loan Reform Act, subsection (a) or (b) of
24 Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail
25 Act, the Internet Caller Identification Act, paragraph (6) of

1 subsection (k) of Section 6-305 of the Illinois Vehicle Code,
2 Section 18d-115, 18d-120, 18d-125, 18d-135, or 18d-150 of the
3 Illinois Vehicle Code, the Internet Dating Disclosure and
4 Safety Awareness Act, Article 3 of the Residential Real
5 Property Disclosure Act, the Automatic Contract Renewal Act, or
6 the Personal Information Protection Act commits an unlawful
7 practice within the meaning of this Act.

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9 eff. 1-1-06; 94-292, eff. 1-1-06; 94-822, eff. 1-1-07; 95-413,
10 eff. 1-1-08; 95-562, eff. 7-1-08; revised 10-17-07.)

11 Section 95. No acceleration or delay. Where this Act makes
12 changes in a statute that is represented in this Act by text
13 that is not yet or no longer in effect (for example, a Section
14 represented by multiple versions), the use of that text does
15 not accelerate or delay the taking effect of (i) the changes
16 made by this Act or (ii) provisions derived from any other
17 Public Act."